

HOUSE BILL 553

D3
HB 1337/14 – HGO & JUD

5lr0686
CF SB 585

By: **Delegates Morhaim, Hammen, Kipke, Oaks, Szeliga, Arentz, Bromwell, Carey, Cluster, Frick, Frush, Gaines, Healey, Hill, Jameson, Kelly, Lam, McComas, Reznik, B. Robinson, Stein, B. Wilson, and Zucker**

Introduced and read first time: February 11, 2015

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland No-Fault Injured Baby Fund**

3 FOR the purpose of declaring certain findings and the intent of the General Assembly;
4 establishing a system for adjudication of a claim involving a birth-related
5 neurological injury; excluding certain rights and remedies of a claimant and certain
6 other persons; providing for certain procedures; providing for certain benefits and
7 compensation of a claimant under this Act; establishing the Maryland No-Fault
8 Injured Baby Fund; providing for the governance, administration, and purposes of
9 the Fund; providing for certain premiums to be used to finance and administer the
10 Fund; providing for certain credits for certain medical liability coverage for the
11 obstetrical practice or services of certain physicians and hospitals; providing for
12 certain patient safety initiatives; defining certain terms; providing for the
13 application of this Act; and generally relating to establishment of a system of
14 adjudication and compensation of a claimant for a birth-related neurological injury
15 through the Maryland No-Fault Injured Baby Fund.

16 BY adding to

17 Article – Courts and Judicial Proceedings

18 Section 3–2D–01 through 3–2D–08 to be under the new subtitle “Subtitle 2D.
19 Maryland No-Fault Injured Baby Fund Claims”

20 Annotated Code of Maryland

21 (2013 Replacement Volume and 2014 Supplement)

22 BY adding to

23 Article – Health – General

24 Section 20–1601 through 20–1603 to be under the new subtitle “Subtitle 16. Birth
25 Injury Prevention”

26 Annotated Code of Maryland

27 (2009 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Insurance
3 Section 32–101 through 32–304 to be under the new title “Title 32. Maryland
4 No–Fault Injured Baby Fund”
5 Annotated Code of Maryland
6 (2011 Replacement Volume and 2014 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Courts and Judicial Proceedings**

10 **SUBTITLE 2D. MARYLAND NO–FAULT INJURED BABY FUND CLAIMS.**

11 **3–2D–01.**

12 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) (1) “BIRTH–RELATED NEUROLOGICAL INJURY” MEANS AN INJURY TO
15 THE BRAIN OR SPINAL CORD OF A LIVE INFANT BORN IN A MARYLAND HOSPITAL
16 THAT:

17 (I) IS CAUSED BY OXYGEN DEPRIVATION OR OTHER INJURY
18 THAT OCCURRED OR COULD HAVE OCCURRED DURING PREPRODROMAL LABOR OR
19 LABOR, DURING DELIVERY, OR IN THE IMMEDIATE RESUSCITATIVE PERIOD AFTER
20 DELIVERY; AND

21 (II) RENDERS THE INFANT PERMANENTLY NEUROLOGICALLY
22 AND PHYSICALLY IMPAIRED.

23 (2) “BIRTH–RELATED NEUROLOGICAL INJURY” DOES NOT INCLUDE
24 DISABILITY OR DEATH CAUSED BY GENETIC OR CONGENITAL ABNORMALITY.

25 (C) “CLAIMANT” MEANS A PERSON WHO FILES A CLAIM IN ACCORDANCE
26 WITH § 3–2D–05 OF THIS SUBTITLE FOR BENEFITS OR COMPENSATION FOR A
27 BIRTH–RELATED NEUROLOGICAL INJURY THAT OCCURS IN THE STATE.

28 (D) “FUND” MEANS THE MARYLAND NO–FAULT INJURED BABY FUND.

29 (E) “HOSPITAL” HAS THE MEANING STATED IN § 19–301 OF THE HEALTH –
30 GENERAL ARTICLE.

1 (F) "OFFICE" MEANS THE OFFICE OF ADMINISTRATIVE HEARINGS.

2 (G) "PHYSICIAN" MEANS AN INDIVIDUAL:

3 (1) LICENSED TO PRACTICE MEDICINE IN THE STATE; OR

4 (2) WHO LEGALLY PRACTICES MEDICINE WITHOUT A LICENSE UNDER
5 § 14-302(1), (2), (3), OR (4) OF THE HEALTH OCCUPATIONS ARTICLE.

6 (H) "QUALIFIED HEALTH CARE COSTS" MEANS REASONABLE EXPENSES OF
7 MEDICAL, HOSPITAL, REHABILITATIVE, FAMILY RESIDENTIAL OR CUSTODIAL CARE,
8 PROFESSIONAL RESIDENTIAL CARE, DURABLE MEDICAL EQUIPMENT, MEDICALLY
9 NECESSARY DRUGS, AND RELATED TRAVEL OR VEHICLE MODIFICATIONS THAT ARE
10 NECESSARY TO MEET A CLAIMANT'S HEALTH CARE NEEDS AS DETERMINED BY THE
11 CLAIMANT'S TREATING PHYSICIANS, PHYSICIAN ASSISTANTS, OR NURSE
12 PRACTITIONERS, AND AS OTHERWISE DEFINED BY REGULATION.

13 3-2D-02.

14 (A) THE GENERAL ASSEMBLY FINDS THAT:

15 (1) BIRTHS OTHER THAN A NORMAL BIRTH SOMETIMES LEAD TO
16 CLAIMS AGAINST THE HOSPITAL WHERE THE BIRTH OCCURRED AND THE
17 ATTENDING PHYSICIAN AND, CONSEQUENTLY, THOSE HOSPITALS AND PHYSICIANS
18 ARE MOST SEVERELY AFFECTED BY MEDICAL LIABILITY RISK AND ASSOCIATED
19 COSTS;

20 (2) BECAUSE OBSTETRIC SERVICES ARE ESSENTIAL, IT IS
21 INCUMBENT ON THE GENERAL ASSEMBLY TO PROVIDE A PLAN DESIGNED TO
22 RESULT IN THE STABILIZATION AND REDUCTION OF MEDICAL LIABILITY RISK AND
23 ASSOCIATED COST IN ORDER TO PRESERVE ACCESS TO OBSTETRIC SERVICES IN
24 MARYLAND;

25 (3) BIRTH-RELATED NEUROLOGICAL INJURY CLAIMS ARE AMONG
26 THE MOST COSTLY AND DEVASTATING TYPES OF MEDICAL INJURIES AND WARRANT
27 THE ESTABLISHMENT OF AN EQUITABLE SYSTEM OF COMPENSATION REGARDLESS
28 OF FAULT; AND

29 (4) SOME BIRTH-RELATED NEUROLOGICAL INJURIES ARE
30 UNAVOIDABLE EVEN UNDER THE BEST CIRCUMSTANCES OF MEDICAL CARE.

31 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE FAIR AND
32 EQUITABLE COMPENSATION, ON A NO-FAULT BASIS, FOR A LIMITED CLASS OF

1 CATASTROPHIC INJURIES THAT RESULT IN UNUSUALLY HIGH COSTS FOR
2 CUSTODIAL CARE AND REHABILITATION, AND THE PLAN UNDER SUBSECTION (A)(2)
3 OF THIS SECTION SHALL APPLY ONLY TO BIRTH-RELATED NEUROLOGICAL
4 INJURIES.

5 **3-2D-03.**

6 (A) THIS SUBTITLE APPLIES TO BIRTHS OCCURRING ON OR AFTER JANUARY
7 1, 2017.

8 (B) THE RIGHTS AND REMEDIES UNDER THIS SUBTITLE EXCLUDE AND
9 SUPPLANT ALL OTHER RIGHTS AND REMEDIES OF THE INFANT, PERSONAL
10 REPRESENTATIVE OF THE INFANT, PARENTS, DEPENDENTS, OR NEXT OF KIN
11 ARISING OUT OF OR RELATED TO THE BIRTH-RELATED NEUROLOGICAL INJURY TO
12 THE INFANT, INCLUDING CLAIMS OF EMOTIONAL DISTRESS RELATED TO THE
13 INFANT'S INJURY.

14 (C) NOTHING IN THIS SUBTITLE EXCLUDES OTHER RIGHTS AND REMEDIES
15 AVAILABLE TO THE MOTHER OF THE INFANT ARISING OUT OF OR RELATED TO A
16 PHYSICAL INJURY, SEPARATE AND DISTINCT FROM A
17 BIRTH-RELATED NEUROLOGICAL INJURY TO THE INFANT, SUFFERED BY THE
18 MOTHER OF THE INFANT DURING THE COURSE OF DELIVERY OF THE INFANT.

19 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CIVIL ACTION IS
20 NOT PROHIBITED AGAINST A PHYSICIAN OR HOSPITAL IF THERE IS CLEAR AND
21 CONVINCING EVIDENCE THAT THE PHYSICIAN OR HOSPITAL MALICIOUSLY
22 INTENDED TO CAUSE A BIRTH INJURY AND THE CLAIM IS FILED BEFORE AND IN LIEU
23 OF PAYMENT OF AN AWARD UNDER THIS SUBTITLE.

24 (E) IF A CLAIM IN A CIVIL PROCEEDING BEFORE A CIRCUIT COURT APPEARS
25 TO INVOLVE AN ELIGIBLE BIRTH-RELATED NEUROLOGICAL INJURY, ON THE
26 MOTION OF A PARTY IN THE CIVIL PROCEEDING, THE COURT SHALL:

27 (1) ORDER A PARTY TO FILE A CLAIM FOR A BIRTH-RELATED
28 NEUROLOGICAL INJURY WITH THE FUND; AND

29 (2) DISMISS THE CIVIL PROCEEDING WITHOUT PREJUDICE.

30 (F) IF A CLAIM IN A PROCEEDING BEFORE THE HEALTH CARE
31 ALTERNATIVE DISPUTE RESOLUTION OFFICE APPEARS TO INVOLVE AN ELIGIBLE
32 BIRTH-RELATED NEUROLOGICAL INJURY, ON THE MOTION OF A PARTY IN THE
33 PROCEEDING, THE DIRECTOR OF THE HEALTH CARE ALTERNATIVE DISPUTE
34 RESOLUTION OFFICE SHALL:

1 **(1) ORDER A PARTY TO FILE A CLAIM FOR A BIRTH-RELATED**
2 **NEUROLOGICAL INJURY WITH THE FUND; AND**

3 **(2) DISMISS THE PROCEEDING BEFORE THE HEALTH CARE**
4 **ALTERNATIVE DISPUTE RESOLUTION OFFICE WITHOUT PREJUDICE.**

5 **(G) A CLAIM FOR COMPENSATION AND BENEFITS UNDER THIS SUBTITLE**
6 **SHALL BE FILED WITHIN THE TIME PERIODS ESTABLISHED UNDER § 5-109 OF THIS**
7 **ARTICLE.**

8 **(H) A CLAIM MAY BE FILED BY A LEGAL REPRESENTATIVE ON BEHALF OF AN**
9 **INJURED INFANT AND, IN THE CASE OF A DECEASED INFANT, BY AN ADMINISTRATOR,**
10 **A PERSONAL REPRESENTATIVE, OR ANY OTHER LEGAL REPRESENTATIVE OF THE**
11 **DECEASED INFANT.**

12 **(I) THE LIMITATIONS PERIOD WITH RESPECT TO A CIVIL ACTION THAT MAY**
13 **BE BROUGHT BY, OR ON BEHALF OF, AN INJURED INFANT FOR DAMAGES ALLEGEDLY**
14 **ARISING OUT OF, OR RELATED TO, A BIRTH-RELATED NEUROLOGICAL INJURY**
15 **SHALL BE TOLLED BY THE FILING OF A CLAIM UNDER THIS SUBTITLE, AND THE TIME**
16 **THE CLAIM IS PENDING OR IS ON APPEAL MAY NOT BE COMPUTED AS PART OF THE**
17 **PERIOD WITHIN WHICH THE CIVIL ACTION MAY BE BROUGHT.**

18 **3-2D-04.**

19 **(A) (1) A CLAIM FILED FOR COMPENSATION OR OTHER BENEFITS UNDER**
20 **THIS SUBTITLE SHALL COMMENCE BY THE CLAIMANT FILING A CLAIM WITH THE**
21 **FUND.**

22 **(2) A CLAIM SHALL INCLUDE THE FOLLOWING INFORMATION:**

23 **(I) THE NAME AND ADDRESS OF THE LEGAL REPRESENTATIVE**
24 **AND THE BASIS FOR THE LEGAL REPRESENTATIVE'S REPRESENTATION OF THE**
25 **INJURED INFANT;**

26 **(II) THE NAME AND ADDRESS OF THE INJURED INFANT;**

27 **(III) THE NAME AND ADDRESS OF EACH PHYSICIAN PROVIDING**
28 **OBSTETRICAL SERVICES, OTHER HEALTH CARE PRACTITIONERS WHO ARE KNOWN**
29 **TO HAVE BEEN PRESENT AT THE BIRTH, AND THE HOSPITAL AT WHICH THE BIRTH**
30 **OCCURRED;**

1 (IV) A DESCRIPTION OF THE DISABILITY FOR WHICH THE CLAIM
2 IS MADE;

3 (V) THE TIME AND PLACE THE INJURY OCCURRED; AND

4 (VI) A BRIEF STATEMENT OF THE FACTS AND CIRCUMSTANCES
5 SURROUNDING THE INJURY AND GIVING RISE TO THE CLAIM.

6 (B) THE CLAIMANT SHALL FILE WITH THE FUND THE FOLLOWING
7 INFORMATION WITHIN 10 DAYS AFTER THE FILING OF THE CLAIM AS SET FORTH IN
8 SUBSECTION (A) OF THIS SECTION:

9 (1) ALL AVAILABLE RELEVANT MEDICAL RECORDS RELATING TO THE
10 BIRTH-RELATED NEUROLOGICAL INJURY AND A LIST IDENTIFYING UNAVAILABLE
11 RECORDS KNOWN TO THE CLAIMANT AND THE REASONS FOR THE RECORDS'
12 UNAVAILABILITY;

13 (2) APPROPRIATE ASSESSMENTS, EVALUATIONS, AND PROGNoses
14 AND OTHER RECORDS AND DOCUMENTS REASONABLY NECESSARY FOR THE
15 DETERMINATION OF THE AMOUNT OF COMPENSATION TO BE PAID TO, OR ON BEHALF
16 OF, THE INJURED INFANT ON ACCOUNT OF THE BIRTH-RELATED NEUROLOGICAL
17 INJURY;

18 (3) DOCUMENTATION OF EXPENSES AND SERVICES INCURRED TO
19 DATE THAT IDENTIFIES THE PAYMENT MADE FOR THOSE EXPENSES AND SERVICES
20 AND THE PAYOR; AND

21 (4) DOCUMENTATION OF ANY APPLICABLE PRIVATE OR
22 GOVERNMENTAL SOURCE OF SERVICES OR REIMBURSEMENT RELATIVE TO THE
23 IMPAIRMENTS.

24 (C) WITHIN 10 DAYS AFTER RECEIPT OF A COMPLETE CLAIM AND THE
25 INFORMATION PROVIDED BY THE CLAIMANT IN ACCORDANCE WITH SUBSECTION (B)
26 OF THIS SECTION, THE FUND SHALL PROVIDE COPIES OF THOSE MATERIALS TO THE
27 PERSONS AND ENTITIES IDENTIFIED IN SUBSECTION (A)(2)(III) OF THIS SECTION.

28 (D) (1) ON RECEIPT OF A CLAIM, THE FUND SHALL INVESTIGATE THE
29 CLAIM.

30 (2) WITHIN 90 DAYS AFTER THE DATE OF SERVICE OF A CLAIM FILED
31 IN ACCORDANCE WITH SUBSECTIONS (A) AND (B) OF THIS SECTION, THE FUND
32 SHALL SERVE ON THE CLAIMANT ITS RESPONSE TO THE CLAIM, INCLUDING

1 WHETHER THE FUND DETERMINES THAT THE INJURY ALLEGED IS A
2 BIRTH-RELATED NEUROLOGICAL INJURY.

3 (3) WITHIN 10 DAYS AFTER SERVING ITS RESPONSE TO A CLAIM, THE
4 FUND SHALL SUBMIT THE CLAIM, TOGETHER WITH ALL INFORMATION AND
5 MATERIALS SUBMITTED BY THE CLAIMANT AND THE FUND'S RESPONSE, TO THE
6 OFFICE FOR ADJUDICATION.

7 (4) AT THE TIME THE FUND SUBMITS THE CLAIM TO THE OFFICE, THE
8 FUND SHALL SUBMIT THE CLAIM, TOGETHER WITH ALL INFORMATION AND
9 MATERIALS SUBMITTED BY THE CLAIMANT AND THE FUND'S RESPONSE, TO THE
10 OFFICE OF HEALTH CARE QUALITY AND THE STATE BOARD OF PHYSICIANS FOR
11 REVIEW.

12 3-2D-05.

13 (A) EACH DETERMINATION OF ELIGIBILITY AND FOR COMPENSATION AND
14 BENEFITS SHALL BE DELEGATED TO THE OFFICE FOR ADJUDICATION AND DECISION
15 BY AN ADMINISTRATIVE LAW JUDGE.

16 (B) THE FUND SHALL PROVIDE WRITTEN NOTICE OF THE SUBMISSION OF A
17 CLAIM FOR ADJUDICATION TO THE CLAIMANT AND TO THE PERSONS AND ENTITIES
18 IDENTIFIED BY THE CLAIMANT UNDER § 3-2D-04(A)(2)(III) OF THIS SUBTITLE.

19 (C) THE OFFICE SHALL DETERMINE, ON THE BASIS OF THE EVIDENCE
20 PRESENTED IN A CONTESTED HEARING, THE FOLLOWING ISSUES:

21 (1) WHETHER THE CLAIM INVOLVES AN ELIGIBLE
22 BIRTH-RELATED NEUROLOGICAL INJURY; AND

23 (2) THE NATURE AND AMOUNT OF COMPENSATION AND BENEFITS, IF
24 ANY, TO BE PROVIDED TO THE CLAIMANT.

25 (D) THE CLAIM SHALL BE DISMISSED IF THE OFFICE DETERMINES THAT
26 THE INJURY ALLEGED IN THE CLAIM IS NOT A BIRTH-RELATED NEUROLOGICAL
27 INJURY.

28 3-2D-06.

29 (A) ON A DETERMINATION THAT AN INFANT HAS SUSTAINED A
30 BIRTH-RELATED NEUROLOGICAL INJURY, THE CLAIMANT MAY BE AWARDED ONE OR
31 MORE OF THE FOLLOWING BENEFITS AND COMPENSATION TO BE PAID OR PROVIDED
32 FROM THE FUND:

1 **(1) ACTUAL LIFETIME EXPENSES FOR QUALIFIED HEALTH CARE**
2 **COSTS, LIMITED TO REASONABLE CHARGES PREVAILING IN THE SAME COMMUNITY**
3 **FOR SIMILAR TREATMENT OF INJURED PERSONS WHEN THE TREATMENT IS PAID**
4 **FOR BY THE INJURED PERSON, EXCLUDING:**

5 **(I) EXPENSES FOR ITEMS OR SERVICES THAT THE INFANT HAS**
6 **RECEIVED, OR IS ELIGIBLE TO RECEIVE, UNDER THE LAWS OF ANY STATE OR THE**
7 **UNITED STATES, EXCEPT TO THE EXTENT THAT THE EXCLUSION MAY BE**
8 **PROHIBITED BY FEDERAL LAW;**

9 **(II) EXPENSES FOR ITEMS OR SERVICES THAT THE INFANT HAS**
10 **RECEIVED, OR IS CONTRACTUALLY ENTITLED TO RECEIVE, FROM A PREPAID**
11 **HEALTH PLAN, A HEALTH MAINTENANCE ORGANIZATION, OR ANY OTHER PRIVATE**
12 **INSURING ENTITY;**

13 **(III) EXPENSES FOR WHICH THE INFANT HAS RECEIVED**
14 **REIMBURSEMENT, OR FOR WHICH THE INFANT IS ELIGIBLE TO RECEIVE**
15 **REIMBURSEMENT, UNDER THE LAWS OF A STATE OR THE UNITED STATES,**
16 **INCLUDING BENEFITS PROVIDED UNDER THE MARYLAND RARE AND EXPENSIVE**
17 **CASE MANAGEMENT PROGRAM, EXCEPT TO THE EXTENT THE EXCLUSION MAY BE**
18 **PROHIBITED BY FEDERAL LAW;**

19 **(IV) EXPENSES FOR WHICH THE INFANT HAS RECEIVED**
20 **REIMBURSEMENT, OR FOR WHICH THE INFANT IS CONTRACTUALLY ENTITLED TO**
21 **RECEIVE REIMBURSEMENT, UNDER THE PROVISIONS OF A HEALTH OR SICKNESS**
22 **INSURANCE POLICY OR OTHER PRIVATE INSURANCE PROGRAM; AND**

23 **(V) EXPENSES RELATED TO THE PROVISION OF HOUSING,**
24 **EXCEPT FOR THE MODIFICATION OF RESIDENTIAL ENVIRONMENT;**

25 **(2) WITHIN THE DISCRETION OF THE OFFICE, AN AWARD NOT**
26 **EXCEEDING \$100,000, PAYABLE IN PERIODIC PAYMENTS OR AS A LUMP SUM TO THE**
27 **INJURED INFANT OR TO THE PARENTS OR LEGAL GUARDIANS OF THE INJURED**
28 **INFANT FOR THE BENEFIT OF THE INJURED INFANT;**

29 **(3) LOSS OF EARNINGS CALCULATED UNDER SUBSECTION (B) OF THIS**
30 **SECTION TO BE PAID IN PERIODIC PAYMENTS BEGINNING ON THE 18TH BIRTHDAY**
31 **OF THE INFANT;**

32 **(4) IF THE INFANT DIES BEFORE ATTAINING THE AGE OF 18 YEARS, A**
33 **FUNERAL PAYMENT IN THE AMOUNT OF \$25,000; AND**

1 **(5) REASONABLE EXPENSES INCURRED IN CONNECTION WITH THE**
2 **FILING AND PROSECUTION OF A CLAIM TO ASSERT ELIGIBILITY AND FOR**
3 **COMPENSATION AND BENEFITS UNDER THIS SUBTITLE, INCLUDING REASONABLE**
4 **ATTORNEY'S FEES ON AN HOURLY BASIS, SUBJECT TO THE APPROVAL AND AWARD**
5 **OF THE ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH SUBSECTION (C) OF**
6 **THIS SECTION.**

7 **(B) (1) AN INFANT FOUND TO HAVE SUSTAINED A BIRTH-RELATED**
8 **NEUROLOGICAL INJURY SHALL BE CONCLUSIVELY PRESUMED TO HAVE BEEN ABLE**
9 **TO EARN INCOME FROM EMPLOYMENT FROM THE AGE OF 18 THROUGH THE AGE OF**
10 **65, AS IF THE INFANT HAD NOT BEEN INJURED, IN THE AMOUNT OF 50% OF THE**
11 **STATE AVERAGE WEEKLY WAGE AS DETERMINED BY THE DEPARTMENT OF LABOR,**
12 **LICENSING, AND REGULATION IN ACCORDANCE WITH § 9-603 OF THE LABOR AND**
13 **EMPLOYMENT ARTICLE.**

14 **(2) PAYMENTS FOR LOSS OF EARNINGS SHALL BE CALCULATED**
15 **BASED ON THE STATE REPORTING PERIOD IMMEDIATELY PRECEDING THE 18TH**
16 **BIRTHDAY OF THE INFANT AND SUBSEQUENTLY ADJUSTED BASED ON THE**
17 **SUCCEEDING ANNUAL REPORTS OF THE STATE AVERAGE WEEKLY WAGE.**

18 **(C) (1) IN DETERMINING AN AWARD FOR ATTORNEY'S FEES, THE**
19 **ADMINISTRATIVE LAW JUDGE SHALL APPLY THE STANDARDS SET FORTH IN**
20 **MARYLAND RULE 2-703(F)(3).**

21 **(2) THE ADMINISTRATIVE LAW JUDGE MAY AWARD ATTORNEY'S FEES**
22 **FOR THE PROSECUTION OF A CLAIM FOUND TO BE INELIGIBLE UNDER THIS**
23 **SUBTITLE IF THE CLAIM WAS NOT SUBMITTED IN BAD FAITH OR WITHOUT**
24 **SUBSTANTIAL JUSTIFICATION.**

25 **(D) AN AWARD OF EXPENSES SHALL REQUIRE THE IMMEDIATE PAYMENT OF**
26 **EXPENSES PREVIOUSLY INCURRED AND SHALL REQUIRE THAT FUTURE EXPENSES**
27 **BE PAID AS INCURRED.**

28 **3-2D-07.**

29 **(A) (1) THE OFFICE SHALL SET THE DATE FOR A HEARING ON A**
30 **CONTESTED CASE NO SOONER THAN 60 DAYS AND NO LATER THAN 120 DAYS AFTER**
31 **THE WRITTEN NOTICE OF THE FUND'S SUBMISSION OF A CLAIM TO THE OFFICE FOR**
32 **ADJUDICATION.**

33 **(2) THE ADMINISTRATIVE LAW JUDGE SHALL NOTIFY IMMEDIATELY**
34 **THE PARTIES OF THE TIME AND PLACE OF THE HEARING.**

1 **(3) THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH**
2 **ARTICLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

3 **(B) (1) THE PARTIES TO THE HEARING SHALL INCLUDE THE CLAIMANT**
4 **AND THE FUND.**

5 **(2) ON REQUEST BY A PERSON OR ENTITY IDENTIFIED BY THE**
6 **CLAIMANT IN ACCORDANCE WITH § 3-2D-04(A)(2)(III) OF THIS SUBTITLE, THE**
7 **PERSON OR ENTITY SHALL BE PERMITTED TO PARTICIPATE AS A PARTY.**

8 **(C) (1) ON APPLICATION TO THE ADMINISTRATIVE LAW JUDGE SETTING**
9 **FORTH THE MATERIALITY OF THE EVIDENCE TO BE GIVEN, A PARTY TO A**
10 **PROCEEDING MAY SERVE INTERROGATORIES OR CAUSE THE DEPOSITIONS OF**
11 **WITNESSES RESIDING IN OR OUTSIDE THE STATE TO BE TAKEN.**

12 **(2) THE DEPOSITIONS SHALL BE TAKEN AFTER GIVING NOTICE AND**
13 **IN THE MANNER PRESCRIBED FOR THE TAKING OF DEPOSITIONS IN ACTIONS AT**
14 **LAW, EXCEPT THAT THEY SHALL BE DIRECTED TO THE ADMINISTRATIVE LAW JUDGE**
15 **BEFORE WHOM THE PROCEEDINGS MAY BE PENDING.**

16 **(3) THE COSTS OF INTERROGATORIES AND DEPOSITIONS SHALL BE**
17 **TAXED AS EXPENSES INCURRED IN CONNECTION WITH THE FILING OF A CLAIM.**

18 **3-2D-08.**

19 **(A) (1) A DECISION OF THE OFFICE UNDER THIS SUBTITLE SHALL**
20 **CONSTITUTE A FINAL DECISION FOR PURPOSES OF JUDICIAL REVIEW.**

21 **(2) A PARTY MAY SEEK JUDICIAL REVIEW OF A FINAL DECISION**
22 **UNDER § 10-222 OF THE STATE GOVERNMENT ARTICLE.**

23 **(B) THE FILING OF A PETITION FOR JUDICIAL REVIEW SHALL STAY**
24 **ENFORCEMENT OF THE FINAL DECISION.**

25 **Article – Health – General**

26 **SUBTITLE 16. BIRTH INJURY PREVENTION.**

27 **20-1601.**

28 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
29 **INDICATED.**

1 (B) "BOARD OF PHYSICIANS" MEANS THE STATE BOARD OF PHYSICIANS IN
2 THE DEPARTMENT.

3 (C) "FUND" MEANS THE MARYLAND NO-FAULT INJURED BABY FUND.

4 (D) "OFFICE" MEANS THE OFFICE OF HEALTH CARE QUALITY IN THE
5 DEPARTMENT.

6 20-1602.

7 (A) (1) THE SECRETARY SHALL CONVENE THE PERINATAL CLINICAL
8 ADVISORY COMMITTEE TO OVERSEE THE GENERAL DISSEMINATION OF
9 INITIATIVES, GUIDANCE, AND BEST PRACTICES TO HEALTH CARE FACILITIES FOR
10 PERINATAL CARE.

11 (2) THE PERINATAL CLINICAL ADVISORY COMMITTEE SHALL
12 CONSULT WITH THE MATERNAL AND PERINATAL HEALTH PROGRAM IN THE
13 DEPARTMENT.

14 (B) (1) THE DEPARTMENT SHALL DEVELOP INITIATIVES AND MAKE
15 RECOMMENDATIONS TO BUILD CULTURES OF PATIENT SAFETY FOR PERINATAL
16 CARE WITHIN HEALTH CARE FACILITIES.

17 (2) THE PERINATAL CLINICAL ADVISORY COMMITTEE SHALL
18 UNDERTAKE COLLABORATIVE WORK TO IMPROVE OBSTETRICAL CARE OUTCOMES
19 AND QUALITY OF CARE, BASED ON THE MARYLAND PERINATAL SYSTEM
20 STANDARDS, AND CLINICAL PROTOCOLS THAT CAN BE STANDARDIZED AND
21 ADOPTED BY HEALTH CARE FACILITIES, INCLUDING:

22 (I) COLLECTING DATA AND SURVEYING, REVIEWING, AND
23 ANALYZING CURRENT BEST PRACTICES AND OUTCOME MEASURES EMPLOYED IN
24 OBSTETRICAL CASES, INCLUDING EXPLORING THE USE OF "VIRTUAL GRAND
25 ROUNDS";

26 (II) COLLECTING DATA AND SURVEYING, REVIEWING, AND
27 ANALYZING CURRENT BEST PRACTICES AND OUTCOME MEASURES EMPLOYED IN
28 PRENATAL CARE;

29 (III) UNDERTAKING A REVIEW OF CLAIMS IN AN EFFORT TO
30 DEVELOP A SET OF "STANDARD BEST PRACTICES" FOR PRENATAL CARE AND
31 DELIVERIES IN MARYLAND;

1 (IV) FORMULATING AND RECOMMENDING TO THE SECRETARY
2 BEST PRACTICE STANDARDS AND DESIGNING NEW PROGRAMS FOR
3 IMPLEMENTATION AND IMPROVED OUTCOMES, INCLUDING CLINICAL BUNDLES FOR
4 HIGH PRIORITY CONDITIONS, ELECTRONIC FETAL MONITORING TRAINING AND
5 CERTIFICATION, AND TEAM TRAINING; AND

6 (V) ENGAGING THE EXISTING REGIONAL PERINATAL CENTER
7 NETWORK IN DIALOGUES REGARDING IMPROVING OBSTETRICAL CARE OUTCOMES
8 AND QUALITY OF CARE AND MAKING RECOMMENDATIONS TO IMPROVE OR UPGRADE
9 ASSISTANCE AND COMMUNICATION TO HEALTH FACILITIES OR BOTH.

10 **20-1603.**

11 (A) ON RECEIPT OF A BIRTH INJURY CLAIM FROM THE FUND, THE OFFICE
12 MAY INVESTIGATE THE CLAIM AND TAKE APPROPRIATE ACTION WITH RESPECT TO A
13 HEALTH CARE FACILITY THAT PROVIDED CARE FOR THE AFFECTED INFANT OR
14 MOTHER.

15 (B) ON RECEIPT OF A BIRTH INJURY CLAIM FROM THE FUND, THE STATE
16 BOARD OF PHYSICIANS MAY INVESTIGATE THE CLAIM AND TAKE APPROPRIATE
17 ACTION WITH RESPECT TO A PHYSICIAN WHO PROVIDED CARE FOR THE AFFECTED
18 INFANT OR MOTHER.

19 **Article - Insurance**

20 **TITLE 32. MARYLAND NO-FAULT INJURED BABY FUND.**

21 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

22 **32-101.**

23 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (B) "COMMISSION" MEANS THE HEALTH SERVICES COST REVIEW
26 COMMISSION ESTABLISHED IN § 19-202 OF THE HEALTH - GENERAL ARTICLE.

27 (C) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE
28 FUND.

29 (D) "FUND" MEANS THE MARYLAND NO-FAULT INJURED BABY FUND.

1 (E) "HOSPITAL" HAS THE MEANING STATED IN § 19-301 OF THE HEALTH -
2 GENERAL ARTICLE.

3 (F) "PREMIUM" MEANS THE ANNUAL ASSESSMENT PAID BY HOSPITALS IN
4 ACCORDANCE WITH § 32-202 OF THIS TITLE.

5 (G) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
6 HYGIENE.

7 SUBTITLE 2. MARYLAND NO-FAULT INJURED BABY FUND.

8 32-201.

9 (A) THERE IS A MARYLAND NO-FAULT INJURED BABY FUND.

10 (B) THE FUND IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE
11 GUARANTY CORPORATION.

12 (C) THE FUND IS AUTHORIZED TO:

13 (1) RECEIVE PREMIUMS COLLECTED UNDER § 32-303 OF THIS TITLE;

14 (2) ADMINISTER THE PAYMENT OF AWARDS UNDER TITLE 3,
15 SUBTITLE 2D OF THE COURTS ARTICLE;

16 (3) INVEST AND REINVEST SURPLUS MONEY OVER LOSSES AND
17 EXPENSES AS SET FORTH IN § 32-302 OF THIS TITLE;

18 (4) REINSURE THE RISKS OF THE FUND WHOLLY OR PARTLY;

19 (5) EMPLOY OR RETAIN PERSONS AS NECESSARY TO PERFORM THE
20 ADMINISTRATIVE AND FINANCIAL TRANSACTIONS AND OTHER NECESSARY AND
21 PROPER FUNCTIONS NOT PROHIBITED BY LAW; AND

22 (6) ENTER INTO CONTRACTS AS NECESSARY OR PROPER TO CARRY
23 OUT THE LEGAL AND PROPER BUSINESS OF THE FUND.

24 32-202.

25 (A) THERE IS A BOARD OF TRUSTEES OF THE FUND.

26 (B) (1) THE BOARD OF TRUSTEES CONSISTS OF SEVEN MEMBERS
27 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

1 **(2) OF THE SEVEN MEMBERS:**

2 **(I) ONE SHALL BE AN OBSTETRICIAN;**

3 **(II) ONE SHALL BE A PEDIATRIC NEUROLOGIST;**

4 **(III) TWO SHALL BE REPRESENTATIVES NOMINATED BY THE**
5 **MARYLAND HOSPITAL ASSOCIATION;**

6 **(IV) ONE SHALL BE AN ATTORNEY; AND**

7 **(V) TWO SHALL BE CITIZEN REPRESENTATIVES.**

8 **(C) (1) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.**

9 **(2) IN APPOINTING MEMBERS, THE GOVERNOR, TO THE EXTENT**
10 **PRACTICABLE, SHALL CONSIDER THE GEOGRAPHIC AND DEMOGRAPHIC DIVERSITY**
11 **OF THE STATE, INCLUDING RACE AND GENDER.**

12 **(D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD OF**
13 **TRUSTEES SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND**
14 **CONSTITUTION.**

15 **(E) (1) THE TERM OF A MEMBER IS 5 YEARS.**

16 **(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL**
17 **A SUCCESSOR IS APPOINTED AND QUALIFIES.**

18 **(3) A MEMBER MAY NOT SERVE FOR MORE THAN THE GREATER OF:**

19 **(I) TWO FULL TERMS; AND**

20 **(II) A TOTAL OF 10 YEARS.**

21 **(4) IF A MEMBER OF THE BOARD OF TRUSTEES CEASES TO BE A**
22 **MEMBER OF THE BOARD, THE GOVERNOR SHALL APPOINT A SUCCESSOR FOR THE**
23 **UNEXPIRED TERM.**

24 **(F) THE BOARD OF TRUSTEES SHALL CHOOSE A CHAIR FROM AMONG ITS**
25 **MEMBERS.**

1 **(G) EACH MEMBER OF THE BOARD OF TRUSTEES IS ENTITLED TO**
2 **REASONABLE PER DIEM COMPENSATION FOR EACH DAY ACTUALLY ENGAGED IN THE**
3 **DISCHARGE OF FUND DUTIES.**

4 **(H) EACH MEMBER OF THE BOARD OF TRUSTEES IS ENTITLED TO**
5 **REIMBURSEMENT FOR REASONABLE EXPENSES.**

6 **(I) THE BOARD OF TRUSTEES:**

7 **(1) SHALL ADOPT RULES, BYLAWS, AND PROCEDURES; AND**

8 **(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS TITLE.**

9 **32-203.**

10 **(A) (1) THE BOARD OF TRUSTEES SHALL APPOINT THE EXECUTIVE**
11 **DIRECTOR OF THE FUND.**

12 **(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE**
13 **BOARD OF TRUSTEES.**

14 **(3) IF THE BOARD OF TRUSTEES FAILS TO AGREE ON A SUCCESSOR**
15 **EXECUTIVE DIRECTOR, THE GOVERNOR SHALL APPOINT THE SUCCESSOR.**

16 **(B) (1) THE EXECUTIVE DIRECTOR:**

17 **(I) IS THE ADMINISTRATIVE HEAD OF THE FUND; AND**

18 **(II) SHALL EXERCISE THE POWERS AND PERFORM THE DUTIES**
19 **CONFERRED ON THE FUND BY THIS TITLE EXCEPT FOR THOSE POWERS AND DUTIES**
20 **CONFERRED ON THE BOARD OF TRUSTEES.**

21 **(2) THE BOARD OF TRUSTEES SHALL ADVISE THE EXECUTIVE**
22 **DIRECTOR ON THE EXERCISE OF THE POWERS AND DUTIES CONFERRED ON THE**
23 **EXECUTIVE DIRECTOR BY THIS TITLE.**

24 **(C) THE BOARD OF TRUSTEES SHALL DETERMINE THE COMPENSATION OF**
25 **THE EXECUTIVE DIRECTOR.**

26 **32-204.**

27 **(A) (1) EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL**
28 **MANAGEMENT SYSTEM.**

1 **(2) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE**
2 **EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF**
3 **TRUSTEES.**

4 **(B) THE EXECUTIVE DIRECTOR SHALL DETERMINE AND ADMINISTER THE**
5 **COMPENSATION OF THE EMPLOYEES OF THE FUND WITH THE APPROVAL OF THE**
6 **BOARD OF TRUSTEES.**

7 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF**
8 **THE FUND IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER**
9 **GOVERNING STATE EMPLOYEE COMPENSATION, INCLUDING FURLOUGHS, SALARY**
10 **REDUCTIONS, AND OTHER GENERAL FUND COST-SAVING MEASURES.**

11 **SUBTITLE 3. THE PURPOSES OF THE FUND.**

12 **32-301.**

13 **(A) THE PURPOSE OF THE FUND IS TO PROVIDE COMPENSATION AND**
14 **BENEFITS TO ELIGIBLE CLAIMANTS UNDER TITLE 3, SUBTITLE 2D OF THE COURTS**
15 **ARTICLE.**

16 **(B) MONEY OF THE FUND CONSISTS OF REVENUES, PREMIUMS, AND OTHER**
17 **RECEIPTS PROVIDED BY LAW.**

18 **(C) (1) ALL OPERATING EXPENSES OF THE FUND SHALL BE PAID FROM**
19 **THE MONEY COLLECTED BY OR FOR THE FUND.**

20 **(2) MONEY AND PROPERTY AVAILABLE TO THE FUND MAY BE USED**
21 **FOR THE GENERAL PURPOSES OF THE FUND, INCLUDING FOR THE PAYMENT OF**
22 **AWARDS ARISING UNDER TITLE 3, SUBTITLE 2D OF THE COURTS ARTICLE AND FOR**
23 **THE ADMINISTRATIVE EXPENSES OF THE FUND.**

24 **(D) (1) THE FUND SHALL PROVIDE TO EACH MARYLAND HOSPITAL AND**
25 **OBSTETRICIAN PRACTICING IN MARYLAND WRITTEN MATERIALS CONTAINING**
26 **INFORMATION ABOUT THE FUND FOR DISTRIBUTION TO OBSTETRICAL PATIENTS.**

27 **(2) THE INFORMATION SHALL INCLUDE A CLEAR AND CONCISE**
28 **EXPLANATION OF A PATIENT'S RIGHTS, REMEDIES, AND LIMITATIONS UNDER THE**
29 **FUND.**

30 **32-302.**

1 **(A) THE ASSETS OF THE FUND ARE NOT PART OF THE STATE TREASURY.**

2 **(B) THE DEBTS AND OBLIGATIONS OF THE FUND ARE NOT A DEBT OF THE**
3 **STATE OR A PLEDGE OF CREDIT OF THE STATE.**

4 **(C) WHEN THE AMOUNT OF MONEY IN THE FUND EXCEEDS THE AMOUNT**
5 **THAT THE EXECUTIVE DIRECTOR BELIEVES IS LIKELY TO BE REQUIRED**
6 **IMMEDIATELY, THE BOARD OF TRUSTEES MAY MANAGE THE EXCESS AS THE BOARD**
7 **OF TRUSTEES CONSIDERS APPROPRIATE AND INVEST THE EXCESS IN INVESTMENTS**
8 **LEGAL FOR CASUALTY INSURERS UNDER §§ 5-601 THROUGH 5-609 OF THIS**
9 **ARTICLE.**

10 **(D) (1) EACH FISCAL YEAR, THE FUND SHALL ENGAGE AN INDEPENDENT**
11 **CERTIFIED PUBLIC ACCOUNTANT TO AUDIT THE ACCOUNTS OF THE FUND.**

12 **(2) THE COST OF THE AUDIT SERVICES SHALL BE BORNE BY THE**
13 **FUND AND BE PAID FROM MONEY DESIGNATED FOR SUCH PURPOSES IN THE FUND.**

14 **(3) THE AUDIT SHALL BE PERFORMED EACH FISCAL YEAR IN**
15 **ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS AND SHALL**
16 **INCLUDE TESTS OF THE ACCOUNTING RECORDS AND AUDITING PROCEDURES AS**
17 **CONSIDERED NECESSARY UNDER THE CIRCUMSTANCES.**

18 **(4) THE ANNUAL AUDIT REPORT SHALL BE DISCLOSED TO THE**
19 **PUBLIC.**

20 **(E) (1) EACH FISCAL YEAR, THE FUND SHALL ENGAGE A QUALIFIED**
21 **ACTUARY WHO IS A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES TO**
22 **INVESTIGATE THE REQUIREMENTS OF THE FUND AND PROVIDE AN ACTUARIAL**
23 **OPINION OF THE VALUATION OF THE ASSETS AND LIABILITIES OF THE FUND.**

24 **(2) THE ACTUARY SHALL PRODUCE A STATEMENT OF ACTUARIAL**
25 **OPINION CONCERNING THE VALUATION OF THE FUND'S ASSETS AND LIABILITIES**
26 **AND THE ADEQUACY OF THE ASSETS, WHICH THE BOARD OF TRUSTEES SHALL**
27 **DISCLOSE TO THE PUBLIC.**

28 **32-303.**

29 **(A) FOR EACH FISCAL YEAR, BASED ON THE ANNUAL STATEMENT OF**
30 **ACTUARIAL OPINION, THE BOARD OF TRUSTEES OF THE FUND SHALL:**

31 **(1) DETERMINE THE AMOUNT REQUIRED TO FINANCE AND**
32 **ADMINISTER THE FUND; AND**

1 **(2) PROVIDE NOTICE OF THE AMOUNT TO THE COMMISSION ON OR**
2 **BEFORE MARCH 1 OF EACH YEAR.**

3 **(B) (1) ON OR BEFORE THE BEGINNING OF EACH FISCAL YEAR, THE**
4 **COMMISSION SHALL ASSESS PREMIUMS FOR ALL MARYLAND HOSPITALS AND**
5 **INCREASE HOSPITAL RATES TOTALING THE AMOUNT DETERMINED BY THE BOARD**
6 **OF TRUSTEES OF THE FUND THAT IS REQUIRED TO FINANCE AND ADMINISTER THE**
7 **FUND.**

8 **(2) (I) THE COMMISSION SHALL ADOPT REGULATIONS THAT**
9 **SPECIFY THE METHODOLOGY FOR THE ASSESSMENT OF PREMIUMS.**

10 **(II) THE COMMISSION'S ASSESSMENT METHODOLOGY SHALL:**

11 **1. ACCOUNT FOR GEOGRAPHIC DIFFERENCES AMONG**
12 **HOSPITALS;**

13 **2. ACCOUNT FOR DIFFERENCES AMONG HOSPITALS'**
14 **HISTORICAL CLAIMS EXPERIENCE INVOLVING BIRTHS IN EACH HOSPITAL; AND**

15 **3. DISTINGUISH BETWEEN HOSPITALS THAT PROVIDE**
16 **OBSTETRICAL SERVICES AND THOSE THAT DO NOT.**

17 **(III) IN DETERMINING HOSPITAL RATES UNDER TITLE 19,**
18 **SUBTITLE 2 OF THE HEALTH – GENERAL ARTICLE, THE COMMISSION SHALL**
19 **INCREASE RATES TO ACCOUNT FULLY FOR THE AMOUNT OF THE PREMIUMS, AND**
20 **THE RESULTING INCREASE MAY NOT BE CONSIDERED IN DETERMINING THE**
21 **REASONABLENESS OF RATES OR HOSPITAL FINANCIAL PERFORMANCE UNDER**
22 **COMMISSION METHODOLOGIES.**

23 **(C) (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH HOSPITAL**
24 **ASSESSED WITH PREMIUMS UNDER THIS SECTION SHALL MAKE PAYMENT TO THE**
25 **COMMISSION.**

26 **(2) THE COMMISSION SHALL COLLECT THE PREMIUM AMOUNTS**
27 **FROM HOSPITALS AND PAY THE PREMIUM AMOUNTS TO THE FUND FOR THE**
28 **PURPOSES OF THIS TITLE.**

29 **32-304.**

30 **(A) (1) EACH INSURER ISSUING OR ISSUING FOR DELIVERY IN THE STATE**
31 **A PERSONAL INJURY LIABILITY POLICY THAT PROVIDES MEDICAL MALPRACTICE**

1 LIABILITY COVERAGE FOR THE OBSTETRICAL PRACTICE OF A PHYSICIAN
2 PRACTICING IN THE STATE SHALL PROVIDE A CREDIT ON THE PHYSICIAN'S ANNUAL
3 MEDICAL MALPRACTICE LIABILITY INSURANCE PREMIUM TO ACCOUNT FOR THE
4 AVAILABILITY OF THE FUND TO COMPENSATE ELIGIBLE CLAIMANTS.

5 (2) THE CREDIT SHALL BE IN AN AMOUNT THAT WILL PRODUCE
6 PREMIUMS THAT ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY
7 DISCRIMINATORY, AS DETERMINED BY THE COMMISSIONER.

8 (B) (1) EACH INSURER ISSUING OR ISSUING FOR DELIVERY IN THE STATE
9 A PERSONAL INJURY LIABILITY POLICY THAT PROVIDES MEDICAL MALPRACTICE
10 LIABILITY COVERAGE FOR THE OBSTETRICAL SERVICES OF A HOSPITAL IN THE
11 STATE SHALL PROVIDE A CREDIT ON THE HOSPITAL'S ANNUAL MEDICAL
12 MALPRACTICE LIABILITY INSURANCE PREMIUM TO ACCOUNT FOR THE
13 AVAILABILITY OF THE FUND TO COMPENSATE ELIGIBLE CLAIMANTS.

14 (2) THE CREDIT SHALL BE IN AN AMOUNT THAT WILL PRODUCE
15 PREMIUMS THAT ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY
16 DISCRIMINATORY, AS DETERMINED BY THE COMMISSIONER.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
18 apply only prospectively and may not be applied or interpreted to have any effect on or
19 application to any cause of action arising before January 1, 2017.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2015.